THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 1991 OF 2007

DATED: 05-02-2007

Between:

Smt. G. Kamala, W/o. G.Nageswara Rao

... Petitioner

And

Andhra Bank, A Government of India undertaking, Main Branch, Kotharoad, Visakhapatnam, rep.by its Authorised Officer Mr. P. Ravindranath Reddy And another

... Respondents

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ORDER:

Petitioner is a guarantor to a loan obtained by a Company, viz., Gajula Exim Private Limited from the Andhra Bank. As the company defaulted in the dues to the Bank, the Bank treated the debt as a Non-Performing Asset and initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Securitisation Act'). Eventually, after proceedings issued under Section 13(2) of the Act followed up by proceedings under Section 13(4) of the Act, possession of the secured asset including that of the petitioner-guarantor was taken by the Bank.

By a tender-cum-public auction notification dated 05-02-2007 published in the daily papers on 20-01-2007, the properties of the petitioner were notified soliciting tenders for sale of these properties. Notice dated 02-01-2007 under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002(for short 'the Rules') was served on the petitioner on 04-01-2007.

The paper publication as mandated under proviso to Rule 8(6) of the rules was however published on 20-01-2007. Petitioner assails the process of auction of her properties, scheduled to be held on 05-02-2007 on the ground that the auction is being held even before the expiry of 30 days from the date of the paper publication and that the conduct of auction within the period of 30 days from the date of expiry of the paper publication (as required under Rule 8(6) proviso) violates the provisions of Rule 9(1) of the rules.

Learned counsel for the respondent-Bank, Sri D. Gopala Krishna states that the Bank does not desire to pursue an interpretive debate as to the scope of the powers under Rule 9. In the circumstances, the respondent-Bank desires to withdraw the paper publication dated 20-01-2007 proposing the conduct of auction of the properties of the petitioner-guarantor on 05-02-2007. A revised press notification would be issued by the respondent-Bank in due course

of time is the contention. The learned counsel for the respondent-Bank states that he has the authority to make such representation before this Court.

In view of the stand taken by the respondent-Bank and the assertion that the impugned press notification would be withdrawn, the singular grievance of the petitioner in this writ petition does not survive for adjudication.

The writ petition is accordingly dismissed as infructuous recording the submission made on behalf of the respondent-Bank that the press publication dated 20-01-2007, proposing the auction of the petitioner's properties, exercising power under the provisions of the Act would be withdrawn with liberty to issue a revised paper notification, in accordance with law. No order as to costs.

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GODA RAGHURAM, J.

Dt: 05-02-2007
Rns